

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

vs

CR. NO. 99-226-06 (HL)

REYES H. ORTIZ-FUENTES

* * * * *

RESPONSE TO REQUEST FOR EARLY TERMINATION

**TO THE HONORABLE HECTOR M. LAFFITE
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF PUERTO RICO**

COMES NOW, VICTOR CARLO-CHEVERE, U.S. PROBATION OFFICER of this Honorable Court, pursuant to the Court Order received on November 23, 2004.

Mr. Reyes H. Ortiz-Fuentes was sentenced by Your Honor on September 19, 2000, to thirty (30) months in custody followed by a four (4) year term of supervised release for violation of Title 21, United States Code, Section 846 to wit, Conspiracy to possess with intent to distribute cocaine. Financial disclosure as well as drug testing were imposed as special conditions. A \$50.00 Special Monetary Assessment and a \$5,000.00 fine were imposed. The supervised release term is scheduled to expire on October 3, 2006.

Mr. Ortiz-Fuentes supervised release term began on October 4, 2002. Since the onset of supervision, he has complied satisfactorily with most of the conditions imposed. A violation to condition number eleven (11) was recorded on October 23rd 2003, when he failed to notify to the Probation Officer within seventy two hours as required by referenced condition of supervised release of being questioned by the Puerto Rico Police Department. On October 20, 2004, his vehicle and residence were searched by police officers. The Probation office was notified of said incident on October 27, 2004 via the offender's attorney. No charges were filed against Mr. Ortiz-Fuentes.

Mr. Ortiz-Fuentes has paid in full the special monetary assessment and fine imposed by the Court, submits the monthly supervision reports and financial documents as required, reports as instructed and all urine tests have yielded negative results to illegal drug use. Nonetheless, Mr. Ortiz-Fuentes was given the opportunity to be held accountable to distribution of more than five hundred (500) but less than two thousand (2,000) grams of cocaine. Had he been held responsible for the total amount of cocaine named in the indictment, the guideline calculations and the applicable statutory penalties would have been affected. A conviction to an offense involving five (5) kilograms or more of cocaine would have exposed the defendant to a statutory minimum imprisonment range of ten (10) years and a minimum term of supervised release of five (5) years. It is to be noted that Mr. Ortiz-Fuentes was sentenced to the minimum term of supervised release allowed by statute. 21 U.S.C 841(b)(1)(B).

This officer's assessment is that granting early termination in spite of his adjustment would depreciate the element of punishment in this case. However, it is recommended for Mr. Reyes H. Ortiz-Fuentes to be granted with administrative supervision as described in the Administrative Caseload Policy adopted by this Court on July, 2004. We respectfully submit this matter to Your Honor's consideration.

In San Juan, Puerto Rico, this 7th of December of 2004

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

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CERTIFICATE OF SERVICE

I HEREBY certify that on December 7, 2004, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Assistant U.S. Attorney John Teakell, U.S. Attorney's Office, Torre Chardón, Suite 1201, 350 Carlos Chardón Ave., San Juan, P.R. 00918; and Lydia Lizarríbar-Masini, Esq.

s/Víctor Carlo-Chévere

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